* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved : March 19,2007
Judgment decided : April 24,2007

\+ BAIL APPLN. 3326/2006

DEVENDER RAM RATWANA ..... Petitioner
Through Mr. Aman Lekhi, Senior Advocate
Mr. Ajay Kumar, Advocate with him

versus

THE STATE NCT OF DELHI .... Respondent
Through Mr. Pawan Sharma, Counsel for the State.
Mr. Ashok Arora, Counsel for the complainant

Mr.Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Mr.Justice S. Ravindra Bhat :

1.. This order proposes to dispose off a revision petition, directed against an order on charge, by the learned Additional Sessions Judge (hereafter "the trial court").

2. Facts necessary to decide this petition, are that Marisa Borg, a citizen of Malta (hereafter "the complainant") filed a complaint alleging commission of offences under Sections 420/ 468/471/IPC, by the petitioners. She was allegedly was cheated by the accused. It is alleged that she came into contact with the petitioner accused, by e-mail chatting. In the process, the

complainant and accused became well acquainted with each other and also became good friends.

3. The complainant alleged that during the period she was also introduced to the petitioner's family members; he allegedly told complainant about his illness. She arranged for his visa and air-tickets, for him, in addition to $ 14,400.00 so that he could visit Malta and for medical treatment. The accused petitioner reached Malta on 17th March 2002; he stayed there for a month.

4. During the period of his visit, the complainant allegedly had sexual intercourse with accused. She consented to it, on the assurance of marriage with him. When the petitioner accused returned to India, he was in touch with her, through phone calls. He also promised to return to Malta, and asked for some money to set-up a gym before his returning to Malta. After some time, when he was supposed to come to Malta, he made an excuse that he wanted some money to satisfy his boss, in order to get back his passport. On this request of accused, the complainant remitted some more money and the total amount given by complainant thus became US $56,052.00.

5. The complaint alleged that after this, the petitioner suddenly vanished and left her clueless. She could not trace his number, and finally filed a complaint dated 15th April 2003 with the police. After filing of first information report, (FIR), the police produced the complainant before court for recording of the statement under sec 164 of Cr PC on 13th April, 2004, when she alleged that she had physical relations with accused on his assurance that he would marry her later. On the basis of this information police included Section 376 IPC in the

FIR. During the investigation, an effort to compromise went on between the petitioner and complainant and pursuant to this the petitioner has given a draft of Rs.1,00,000/- dated 01-12-05 and a draft of Rs 1, 50,000/- on 07-12-05.

6. During the pendency of the bail application the accused deposited Rs.3,50,000/-, which comprised of a cheque of 3,00,000/- and draft of Rs 50,000/-. He was granted an interim bail. Compromise proceedings did not fructify therefore the trial court directed the complainant to return the draft of Rs. 3,00,000/- and rejected the bail application, by order dated 27-01-2004. The Petitioner surrendered on 06-02-2006 and since then he is in judicial custody. The police, thereafter filed a charge sheet and case was committed to the court of Sessions, where by charges were framed under Sections 420/468/471/376 IPC.

7. In the order dated 30-08-2006, the trial court had charged the applicant of having committed the offences under Sections 420/ 468/471/ and 376, IPC. During the pendancy of these proceedings, the applicant petitioner had, pursuant to a statement recorded, deposited certain amounts, to display his *bona fides.* He was thereafter enlarged on interim bail.

8. Today, by a separate order, this court has set aside the order of the trial court in so far as it proceeded to charge the petitioner of having committed offences under Section 376. However, the order on charge in regard to the other offences was left undisturbed.

9. In view of the fact that the petitioner had undergone incarceration in judicial custody, for a considerable period, and he has also complied with the undertaking given to the court, to deposit the amounts as well as the further fact that the investigation into the case is complete, I am of the view that this is an appropriate case for grant of regular bail. At the same time, I am

of the opinion that since the complainant is a foreign national, she would be put to considerable hardship if the dates of trial are not indicated in advance.

10. For the above reasons, the petitioner's interim bail is confirmed on the same terms, indicated in the order dated 26-9-2006. In addition, he shall furnish a surety in the sum of Rs. 50,000/- of one family member. He shall surrender his passport to the court, and he shall not attempt to contact the complainant or any other material witness. The trial court is directed to expedite the proceedings, and conclude the trial preferably within 9 months from today. It shall fix the date for recording of evidence of the complainant well in advance, after ascertaining her convenience, during the proceedings, from her counsel.

11. The application is allowed in the terms, and subject to the directions, indicated above.

DATE: 24th April, 2007 S. RAVINDRA BHAT, J